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**IN THE  
COURT OF APPEALS OF INDIANA**

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LORENZO STEWART,  
Appellant-Defendant,

vs.

STATE OF INDIANA,  
Appellee-Plaintiff.

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No. 02A03-0602-CR-55

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APPEAL FROM THE ALLEN SUPERIOR COURT  
The Honorable Frances C. Gull, Judge  
Cause No. 02D04-0504-MR-8

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**October 13, 2006**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**RILEY, Judge**



## STATEMENT OF THE CASE

Appellant-Defendant, Lorenzo Stewart (Stewart), appeals his conviction of attempted murder, a Class A felony, Ind. Code §§ 35-42-1-1, 35-41-5-1.

We affirm.

## ISSUE

Stewart raises one issue on appeal, which we restate as: Whether the State presented sufficient evidence to support his conviction of attempted murder.

## FACTS AND PROCEDURAL HISTORY

On April 23, 2005, at approximately 8:00 or 9:00 p.m., four people were inside Roy Hill's (Hill) apartment in Fort Wayne, Indiana, including Hill, Stewart, Janice Coleman (Coleman), and Rene Strater (Strater). Coleman and Strater were drinking alcohol and dancing in the kitchen, while Hill and Stewart sat at the kitchen table, drank alcohol, and watched them dance. At some point, Stewart commented to Strater that Strater thought she was "too good for [him]," and threatened to "fuck up [Strater's] face." (Transcript p. 231). Stewart then shot Strater in the head with a .38 pistol. Moments later, Stewart approached Coleman and shot her in the middle area of her torso. After the shootings, which resulted in Strater's death and serious injury to Coleman, Stewart exited the apartment and said to a neighbor, "I shot them bitches, I shot them bitches," and, "I fucked up, I fucked up, damn, I fucked up." (Tr. pp. 218-19). Within five minutes, police officers arrived and arrested Stewart. When the police officers asked Stewart for the gun, Stewart told them it was on the ground behind them. The police then recovered the gun.



On April 28, 2005, the State filed Informations charging Stewart with: Count I, murder, I.C. § 35-42-1-1; Count I, Part 2, additional penalty for use of a firearm, I.C. § 35-50-2-11; Count II, attempted murder, a Class A felony, I.C. §§ 35-42-1-1, 35-41-5-1; Count III, carrying a handgun without a license, a Class C felony, I.C. §§ 35-47-2-1, 35-47-2-23; and Count III, Part 2, carrying a handgun without a license, I.C. §§ 35-47-2-1, 35-47-2-23. On November 15-16, 2005, a jury trial was held, and Stewart was found guilty on all counts and charges. On January 6, 2006, the trial court sentenced Stewart to 65 years, enhanced by 5 years, for Count I, murder; 50 years for Count II, attempt murder; and 8 years for Count III, carrying a handgun without a license. The trial court ordered Stewart's sentence on Count II to be served consecutive to that on Count I, and his sentence on Count III to be served concurrent to that on Count I.

Stewart now appeals his conviction for attempted murder only. Additional facts will be provided as necessary.

### DISCUSSION AND DECISION

Stewart argues that the evidence is insufficient to sustain his conviction for attempt to murder Coleman. Specifically, Stewart contends the State failed to prove he possessed the requisite intent to kill her.

Our standard of review for a sufficiency of the evidence claim is well settled. In reviewing sufficiency of the evidence claims, we will not reweigh the evidence or assess the credibility of the witnesses. *Cox v. State*, 774 N.E.2d 1025, 1028-29 (Ind. Ct. App. 2002). We will consider only the evidence most favorable to the judgment, together with all reasonable and logical inferences to be drawn therefrom. *Alspach v. State*, 755 N.E.2d



209, 210 (Ind. Ct. App. 2001), *trans. denied*. The conviction will be affirmed if there is substantial evidence of probative value to support the conviction of the trier of fact. *Cox*, 774 N.E.2d at 1028-29.

In order to convict Stewart of attempted murder, the State was required to prove beyond a reasonable doubt that Stewart engaged in conduct that constituted a substantial step toward intentionally killing another human being. I.C. §§ 35-42-1-1, 35-41-5-1; *Corbin v. State*, 840 N.E.2d 424, 429 (Ind. Ct. App. 2006). Our supreme court has long held that the intent to kill may be inferred from the intentional use of a deadly weapon in a manner likely to cause death or serious bodily injury. *Booker v. State*, 741 N.E.2d 748, 755 (Ind. Ct. App. 2000). Further, our supreme court has held that discharging a weapon in the direction of a victim is substantial evidence from which the jury could infer intent to kill. *Corbin*, 840 N.E.2d at 429. Intent to kill may also be inferred from the nature of the attack and circumstances surrounding the crime. *Id.*

Stewart now offers the fact that his shooting Coleman in the torso, rather than in the head -- as he did Strater -- demonstrates that he did not possess the intent to kill Coleman. We find this an absurd and self-serving argument, which we are not inclined to accept.

Our review of the record shows that the State presented evidence that although Coleman did not see Stewart shoot Strater in the head, she saw Stewart put a gun into his right pocket just before he shot her in the torso. Therefore, we find it reasonable to infer that Stewart deliberately removed the gun from his pocket and discharged it in the direction of Coleman. In arriving at this conclusion, we reiterate that the crime of



attempted murder does not mandate in every instance that the defendant intend to kill his victim. Rather, the defendant needs only to intentionally use a weapon in a manner likely to cause death *or serious injury*. *See id.* Whether Stewart shot Coleman in the head, torso, or foot, there is evidence that he intentionally used a .38 pistol in a manner likely to cause serious injury. Thus, because the act of removing the weapon from his pocket and firing it at Coleman clearly constitutes the intentional use of a deadly weapon in a manner likely to cause death or serious injury, we conclude that the record contains sufficient evidence that Stewart possessed the requisite intent to be convicted of attempting to kill Coleman.

#### CONCLUSION

Based on the foregoing, we conclude that the State presented sufficient evidence to convict Stewart of the attempted murder of Coleman.

Affirmed.

BAILEY, J., and MAY, J., concur.